



# COMMONWEALTH of VIRGINIA

*Office of the Comptroller*


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July 13, 2004

## **MEMORANDUM**

TO: Heads of Executive Branch Agencies and Institutions of Higher Education

FROM: David A. Von Moll 

SUBJECT: State Employee Fraud, Waste, and Abuse Hotline

The Governor, in Executive Order Number 24 (2002) has charged the State Internal Auditor (SIA) to continue to administer the State Employee Fraud, Waste, and Abuse Hotline Program (Hotline). The SIA directs Hotline operations within the Division of the State Internal Auditor, a division of the Department of Accounts. This letter is to provide you with information and policies regarding the State Employee Fraud, Waste, and Abuse Hotline process. I encourage you to share this information with your executive management team, line managers, and supervisors.

Surveys indicate that those organizations that have Hotline programs reduce their losses considerably more than those who do not have them. The Governor's State Employee Fraud, Waste, and Abuse Program has been successful in identifying resources at risk, and as a deterrent to fraud, waste, and abuse. This reporting mechanism along with a strong "tone at the top" regarding governance and ethics goes a long way in protecting the Commonwealth's resources. All state employees should be encouraged to report fraud, waste, and abuse to management, or if they are uncomfortable doing so, to the Hotline at 1-800-723-1615.

Generally, the SIA carries out this responsibility through the network of agency/institution (agency) internal auditors and designated agency hotline coordinators. When appropriate, the SIA refers callers to other state entities in place to investigate specific types of allegations. For instance, callers with allegations involving employee grievances or discrimination complaints are

referred to the Department of Employment Dispute Resolution or the Department of Personnel and Training's Equal Employment Services Office. Additional examples of complaints not within the purview of the Hotline include, but are not limited to, allegations concerning state legislators, judges, localities, and private citizens or entities.

The SIA is responsible for conducting all investigations involving alleged improprieties committed by Cabinet officials, agency heads, internal auditors, and other officials as the circumstances warrant. The SIA may conduct the investigation, or assist agency hotline coordinators in those agencies that do not have an internal audit program. The SIA also has the prerogative of choosing to conduct any investigation, regardless of whether an agency has an internal audit program or hotline coordinator.

In the past year or so, there has been an increase in the number of complaints from individuals that believe they have been retaliated against for calling the Hotline, or against witnesses that have cooperated with Hotline investigators. **The use of the Hotline by state employees cannot be discouraged by agency management.**

**The State Employee Fraud, Waste, and Abuse Hotline must be completely anonymous. As directed in the Executive Order, under no circumstances shall anyone attempt to identify any person who may call or cooperate with the Hotline. If the caller should somehow be identified or any employee even be suspected, there shall be no retaliation, retribution, or adverse action taken against that person. Violation of this policy is a Group II offense as provided for in the Department of Personnel and Training Policy and Procedures Manual.**

### **General Definitions of Fraud, Waste, and Abuse**

**Fraud** – The intentional deception perpetrated by an individual or individuals, or an organization or organizations, either internal or external to state government, which could result in a tangible or intangible benefit to themselves, others, or the Commonwealth or could cause detriment to others or the Commonwealth. Fraud includes a false representation of a matter of fact, whether by words or by conduct, by false or misleading statements, or by concealment of that which should have been disclosed, which deceives and is intended to deceive.

**Waste** – The intentional or unintentional, thoughtless or careless expenditure, consumption, mismanagement, use, or squandering of Commonwealth resources to the detriment or potential detriment of the Commonwealth. Waste also includes incurring unnecessary costs as a result of inefficient or ineffective practices, systems, or controls.

**Abuse** – Excessive or improper use of a thing, or to employ something in a manner contrary to the natural or legal rules for its use; the intentional destruction, diversion, manipulation, misapplication, maltreatment, or misuse of the Commonwealth's resources; and extravagant or excessive use as to abuse one's position or authority. Abuse can occur in financial or non-financial settings.

### **Agency Hotline Coordination**

**Heads of Internal Audit Programs** – As required by the Executive Order, hotline allegations will be forwarded by the SIA to the head of the agency's internal audit program except in those cases where the agency head, senior official, or a member of the internal audit staff may be a subject of the investigation.

**Agency/Institution Head** – Heads of agencies which do not have an internal auditing program should designate a high-level individual within the agency to conduct investigations, or to coordinate the SIA's investigation and the resolution of complaints involving the respective agency. This individual should have some background or training in conducting administrative investigations. The individual's name, position within the agency, address, and telephone number should be provided to the SIA using Attachment A, "Coordinator Information". This form should be returned to the SIA by **August 20, 2004**. If changes in hotline coordinator personnel occur, the SIA should be notified immediately. Because of the sensitivity and nature of complaints, the SIA recommends the hotline coordinator be the agency head, deputy, or a senior member of his or her management team in order to ensure confidentiality, timeliness, and maximum access to records, personnel, and physical properties during investigations.

**Responsibility** – The head of the internal audit program and agency hotline coordinators conduct investigations for, and are responsible to the SIA for the conduct of Hotline investigations, and may not be restricted, limited, or interfered with in the conduct of investigations. Per the Executive Order, the staff of the Division of the State Internal Auditor, agency internal audit staff, those designated by the head of internal audit to conduct the investigation, and agency hotline coordinators shall have access to all records, personnel, computers, files, and things necessary to conduct an appropriate investigation. Agency heads must ensure that appropriate corrective action is taken in substantiated cases or where corrective action is recommended, to include disciplinary action. Under no circumstances will the investigation or reporting process be interfered with.

**Hotline Process** – The following is a brief overview of the Hotline process.

- Allegations are received through a toll-free line operated by the SIA; additionally, allegations are also received through other means such as e-mail, fax, U.S. mail, or the Governor's office.
- All callers are told not to disclose their identity;
- The call is evaluated in the first screening process to determine whether the allegation involves fraud, waste, or abuse of state resources or falls outside of the Executive Order;
- A case number is assigned to each call that passes the first screening to facilitate a follow-up process to clarify or obtain additional information regarding allegations. To ensure confidentiality, under no circumstance should this number be disclosed to anyone other than the caller, head of internal audit, or hotline coordinator;
- A SIA investigator records the facts about allegations and attempts to solicit sufficient information to conduct an effective investigation;
- Cases undergo a second screening process to eliminate allegations that contain insufficient details to conduct an effective investigation or do not meet other screening criteria established by the SIA;
- SIA maintains a database of all cases by date, time, agency, and case number for control;
- For cases assigned to an internal audit program or hotline coordinator, a written notice of the allegation(s) is mailed to the head of internal audit or hotline coordinator of the subject agency usually within two business days of being received by the SIA;
- All investigations are to be completed within 60 days of receipt of the allegation. If additional time is necessary, a request to the SIA for an extension is required.

## Investigations

All investigations shall be conducted thoroughly and with due diligence using investigative and interviewing techniques appropriate for the situation. The SIA is available to assist in the development of appropriate investigative steps and interview questions and techniques. All investigative procedures will be documented and maintained as indicated below. The SIA may, from time to time, review the investigative work to determine the quality and the appropriateness of

the investigative work, and to provide suggestions for improvement in future investigations. In substantiated cases, an effort must be made to identify any funds at risk, recoveries, or savings to the Commonwealth.

All cases screened out in the second screening process are provided to the agency's head of internal audit or hotline coordinator on a monthly basis. It is within their discretion whether an investigation is warranted or even possible in view of the facts presented. If, however, an investigation is initiated, the results must be reported to the SIA upon completion, as in any other assigned investigation.

The SIA recognizes that in some large agencies, with locations throughout the Commonwealth, investigations may be delegated to other responsible members of the management team to conduct. In those cases where investigations are delegated to others, the head of internal audit should develop the scope of work and basic interview questions that need to be asked. The responsible individuals must conduct the investigation in the same confidential manner as would internal audit. Under no circumstance will the case number or intake documents be disclosed to anyone other than the internal audit program or the hotline coordinator. **The head of internal audit or hotline coordinator remains responsible to the SIA for the proper conduct of these investigations. They must also ensure that the person conducting the investigation can be objective and is properly trained to conduct investigations. Investigations should not be assigned to someone in the subject's "direct chain of command".** The SIA is available to provide them with any necessary assistance or training. Additionally, they must provide a conclusion as to whether or not the allegation(s) was/were substantiated and identify and resources at risk, savings, or recoveries..

The SIA may participate in the investigation if warranted by the nature of the allegation, or if the agency head, head of internal audit, or hotline coordinator requests its participation.

**Reporting** – Reports of the results of investigations will be reported to the SIA in accordance with Chapter 8 of the Hotline Policies and Procedures Manual. Recommended corrective actions will be made to the agency head. The report must provide a conclusion as to whether or not the allegation(s) was/were substantiated. In those instances where there is a reasonable possibility that a fraudulent transaction involving funds or property of the Commonwealth has occurred as defined above, or as described in Section 30-138.A, of the *Code of Virginia*, the agency head is required to notify the Auditor of Public Accounts and the Superintendent of State Police immediately. The SIA should also be notified immediately. Furthermore, the SIA may refer allegations to the Auditor of Public accounts and the Superintendent of State Police if the circumstances warrant.

**Documentation and Confidentiality** – All information supporting investigations and any remedial action taken shall be maintained at the agency. All such information, documentation, etc. is the property of the SIA and shall be so identified by stamping them as indicated below. The SIA may require that supporting information accompany reports. All reports, supporting documentation, and information must be stamped or identified as “**Confidential State Employee Hotline Documents**”. **Investigations, investigative notes (including case intake sheets and case numbers), interviews, and information or other working papers relating to investigations should not be shared, discussed, or given to anyone.** If an agency should receive a request for information regarding a Hotline investigation, either through the Freedom of Information Act or other means, the requestor should be referred to the SIA. **Under no circumstances should the agency provide any information to the requestor.** Doing so could seriously jeopardize the integrity and confidentiality of the Hotline, as well as usurp SIA’s FOIA exemption.

The SIA has published a Hotline Policy and Procedures Manual that can be accessed at [www.doa.state.va.us](http://www.doa.state.va.us), select the State Internal Audit button, then select the fraud button, and then select Hotline Policies and Procedures Manual. Our goal is to make the Hotline as efficient and effective as possible without compromising either the integrity of the Hotline or the confidentiality of callers, witnesses, or others identified during the course of an investigation.

Again, agencies that **do not** have an internal audit program should **complete Attachment A and return it to DSIA by August 20, 2004.** Should you have any questions or desire to meet with us to discuss the Hotline program, do not hesitate to contact Merritt Cogswell at (804) 225-3106, Ext. 23. He can also be reached by e-mail at [merritt.cogswell@doa.virginia.gov](mailto:merritt.cogswell@doa.virginia.gov). Thank you for your cooperation with and support of the State Employee Fraud, Waste, and Abuse Hotline Program.

c: The Honorable William H. Leighty, Chief of Staff  
The Governor’s Cabinet  
Mr. Donald Ferguson, Senior Assistant Attorney General  
Internal Audit Directors  
Inspector General, Department of Corrections  
Inspector General, Department of Correctional Education  
Inspector General, Department of Juvenile Justice  
Inspector General, Department of Transportation

**Division of the State Internal Auditor**

**Attachment A:**

**Agency Fraud, Waste, and Abuse Hotline Coordinator Information**  
(Only those agencies without internal audit functions need to complete)

Agency Name: \_\_\_\_\_

Agency Number: \_\_\_\_\_

Agency Hotline  
Coordinator's Name: \_\_\_\_\_

Coordinator's Title: \_\_\_\_\_

Coordinator's Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Coordinator's Telephone #: \_\_\_\_\_

Coordinator's E-Mail Address: \_\_\_\_\_

This form should be returned no later than August 20, 2004  
via fax, e-mail or USPS to:

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